

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT SMITH,

Plaintiff,

Case No. 14-cv-10426
Hon. Matthew F. Leitman

v.

NORFOLK SOUTHERN COMPANY and
CONSOLIDATED RAIL CORPORATION,

Defendants.

ORDER DISMISSING PLAINTIFF'S COMPLAINT (ECF #1)
WITH PREJUDICE

In this action, Plaintiff Robert Smith (“Smith”) seeks damages arising out of an accident between a train and the vehicle he was driving. (*See* Complaint, ECF #1.) On December 4, 2015, Smith’s then-attorneys filed a motion to withdraw as counsel (the “Motion to Withdraw”). (*See* ECF #36.) The Court set a hearing on the Motion to Withdraw for December 21, 2015. (*See* ECF #37.) In its notice of hearing – in bold, underlined text – the Court ordered Smith to “personally appear” at the hearing. (*See id.* at 1, Pg. ID 287.) Smith failed to appear as directed. At the hearing, Smith’s then-attorneys confirmed on the record that they mailed Smith a copy of the notice of hearing on the Motion to Withdraw.

On December 21, 2015, the Court entered an order (1) allowing Smith’s then-attorneys to withdraw as counsel and (2) requiring Smith to “show cause in

writing why this action should not be dismissed with prejudice” (the “Show Cause Order”). (ECF #38 at 2, Pg. ID 290.) The Court ordered Smith to “file his written response ... with the Clerk of this Court by not later than the close of business on January 25, 2015.” (*Id.* at 2-3, Pg. ID 290-291.) The Court then expressly warned Smith that if he failed to respond by the provided deadline, his “action [would] be dismissed with prejudice.” (*Id.* at 3, Pg. ID 291.) Smith never filed any response to the Show Cause Order. Smith’s former attorneys each filed proofs of service with the Court confirming that they mailed a copy of the Show Cause Order to Smith. (*See* ECF ## 41, 43.)

Accordingly, due to Smith’s failure to prosecute this action and to comply with multiple orders of this Court, **IT IS HEREBY ORDERED** that, pursuant to Rule 41(b) of the Federal Rule of Civil Procedure, Plaintiff’s Complaint (ECF #1) is **DISMISSED WITH PREJUDICE**. **IT IS FURTHER ORDERED** that all pending motions in this action are **TERMINATED AS MOOT**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: January 26, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 26, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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